



# DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND

200 STOVALL STREET

ALEXANDRIA, VA 22332-2300

IN REPLY REFER TO

NAVFACINST 5354.1

FAC 12R

4 February 1997

## NAVFAC INSTRUCTION 5354.1

Subj: EQUAL OPPORTUNITY

Ref: (a) SECNAVINST 5350.10B  
(b) OPNAVINST 5354.3D (NOTAL)  
(c) OPNAVINST 5354.1D  
(d) NAVPERS 15620  
(e) SECNAVINST 5300.26B  
(f) OPNAVINST 5300.9  
(g) OPNAVINST 3100.6F

Encl: (1) Discrimination/Sexual Harassment Reporting  
Guidelines  
(2) Equal Opportunity Data Report (NAVFAC Form 5354/1)

1. Purpose. To provide Commander, Naval Facilities Engineering Command (NAVFAC), Equal Opportunity (EO) policy and guidance for NAVFACENGCOM activities.

2. Background. Reference (a) provides the Department of the Navy (DON) EO policy and charges each member of the Navy to actively counter discrimination. Reference (b) establishes goals, objectives, action steps, and responsibilities in support of a demographically balanced Navy, dedicated to fair treatment, upward and lateral mobility, and freedom from discrimination and sexual harassment for all personnel. Reference (c) promulgates Navy policies and regulations which pertain to EO and defines the responsibilities and actions required of all commands. It places primary responsibility for identifying and resolving EO issues in the chain of command. Reference (d) is the pamphlet, "Resolving Conflict...Following the Light of Personal Behavior," and describes in detail the Informal Resolution System for resolving conflicts at the lowest possible level. Reference (e) states DON policy on sexual harassment. Reference (f) sets forth the policy of the Chief of Naval Operations (CNO) on sexual harassment in the Navy. Reference (g) promulgates procedures for filing operational reports. This instruction sets forth NAVFAC EO policy and guidance in support of references (a) through (f) and as modified by reference (g).

3. Applicability and Scope. This instruction applies to all active duty Navy units and personnel assigned to NAVFAC Headquarters and its claimant commands. The scope of this instruction extends to family members of military personnel where specifically stipulated. Civilian Equal Employment Opportunity (EEO) policies and guidance are detailed in separate instructions

issued by the Office of Civilian Personnel Management (OCPM) and the Equal Employment Opportunity Commission (EEOC). Civilian personnel policy instructions concerning EEO apply to Navy commands and staff employing U. S. civilian personnel and to all civilian employees, the commanding officer, and all military managers and supervisors of civilian personnel.

#### 4. Policy.

a. A positive EO climate is essential to the good order, discipline, group cohesion, individual commitment, and high morale required to achieve optimal command readiness and efficiency. Practices or behaviors which intentionally or unintentionally impede the opportunity for any member to fully contribute, limited only by individual initiative and ability or the mandates of existing law, are unacceptable and constitute major liabilities to command and Navy mission objectives.

b. EO is an inherent responsibility of leadership and is an integral function of command. NAVFACENGCOM commanders, commanding officers, and officers-in-charge will fully support both the letter and the spirit of Department of Defense and Navy mandates to ensure that a positive EO climate exists as a command-managed and command-monitored norm. The chain of command must be approachable and engender confidence in its willingness and ability to actively enforce a positive EO environment, and to fairly evaluate and promptly and appropriately act upon any grievance or discrimination complaint. Commands must ensure that equal opportunity and fair treatment are afforded to all members without regard to race, ethnicity, color, religion, gender, or national origin and that personnel are afforded an environment free from sexual harassment.

c. NAVFACENGCOM personnel at all levels are expected to exhibit the highest standards of professional behavior. Personnel must not only exhibit nondiscriminatory behaviors, but also appropriately challenge and report discriminatory behaviors which they may become aware of or subject to. Strong, positive leadership and a "not in my Navy" attitude adopted by all personnel are essential to achieving Navy EO objectives. All members must understand their rights and responsibilities and be held accountable for their actions.

d. In accordance with reference (c), all EO or Sexual Harassment (SH) complaints should be resolved at the lowest possible level. Use of the Informal Resolution System (IRS) is the preferred method of resolution (reference (d) pertains). When the IRS fails, the primary method of filing formal EO/SH complaints is via the Navy EO/SH Formal Complaint Form (NAVPERS 5354/2). This four-part form is designed to simplify the process of filing formal complaints. It is self-contained, carries the complaint process from beginning to end, and serves as official documentation of the resolution process. Detailed information, including reporting timelines, for processing the complaint is

contained in the NAVPERS 5354/2. The form does not replace alternate methods of filing formal complaints currently available to military personnel (i.e., Article 1150, U.S. Navy Regulations or Article 138, Uniform Code of Military Justice).

5. Action.

a. NAVFAC will conduct appropriate oversight to ensure that there is a positive emphasis on EO and a proactive Command Managed EO (CMEO) environment throughout the NAVFAC claimancy by conducting assist visits to subordinate commands and through the reporting requirements described in paragraph 6 of this instruction. Assist visits will evaluate the command's implementation of EO objectives, its process of monitoring and analyzing equal opportunity and demographic/assessment data, as well as the command's progress in achieving quality of life improvements.

b. Commanders, commanding officers, and officers in charge will:

(1) Serve as exemplary models of leadership-by-example and ensure their continued personal involvement through frequent briefings to command personnel on Navy and command policies. This level of visibility cannot be delegated, and must be reinforced and emulated by leadership at all levels of the subordinate chain of command.

(2) Impress and enforce, at every level of the chain of command, a behavioral norm and organizational value of zero tolerance for incidents of discrimination, fraternization, sexual harassment, or reprisal.

(3) Fully implement CMEO per the provisions of references (a) through (f) and this instruction. Focus should be on the quality of processes and results as well as on the existence or nonexistence of individual process elements.

(4) Actively monitor and continually assess the EO climate and quality of CMEO implementation at all levels within areas of responsibility. Ensure that CMEO required training is conducted as detailed in reference (c) and is actively monitored for maximum quality and effectiveness.

(5) Ensure that an accurate annual assessment of the command's EO status is conducted in full compliance with the provisions of reference (c). It must be noted and enforced that demographic data collection and maintenance, while critical to the annual assessment, do not constitute the assessment. Demographic data will be supplemented by an EO survey, interviews/focus groups, and observations. The Command Assessment Team Indoctrination Course Manual (NAVEDTRA 7523-D) provides detailed guidance relevant to the command assessment. All data must be properly collected and

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analyzed, with results briefed to the commanding officer for assignment of appropriate Plans of Action and Milestones. Ensure completion of other assessments deemed necessary at the command level, or levied by higher authority.

(6) Conduct a review of training opportunities and awards records in addition to those data categories specified as part of the annual assessment required by reference (c). Particular emphasis should be placed on analyzing disparities in management practices for any indicators of inappropriate bias. The distribution of awards will be monitored by the categories of department, gender, and racial/ethnic group for detection of trends or instances that may be indicative of unfair bias or oversight.

(7) Include their transient military populations in the annual command assessment, fully described in reference (c), to assist in detecting disparities in personnel management or inappropriate bias of any kind. Transient military populations include military personnel attached on temporary duty or temporary assignment and Navy reservists performing active duty for training (ACDUTRA) if the period of the survey coincides with the reservists period of ACDUTRA.

(8) Monitor all cases where there is an allegation or expressed perception of discrimination, SH, rape, or sexual assault to ensure thorough investigation, timely involvement of appropriate agencies, and adequate follow-up occur.

(9) Ensure prompt follow-up and appropriate action to resolve allegations of discrimination against command personnel and their family members.

(10) Designate a command point of contact to assist in resolving SH and EO complaints. Reference (c) details requirements and pertinent guidance.

(11) Designate in writing personnel to act as points of contact for filing the NAVPERS 5354/2 with the command. These individuals should be qualified to administer oaths per chapter IX of the JAGMAN and trained in the proper methods of processing the form.

(12) Designate in writing at least one individual to act as command point of contact authorized to accept receipt of the formal complaint. This function may be performed by personnel designated as the points of contact for filing the NAVPERS 5354/2. This individual is responsible for ensuring the complaint is forwarded to the commanding officer within one calendar day of receipt.

(13) When processing a formal discrimination or SH complaint filed via the NAVPERS 5354/2, the commanding officer will:

(a) Acknowledge receipt of the NAVPERS 5354/2 and initiate an investigation of the complaint within three calendar days thereafter. If another command member is assigned this responsibility, that authority shall be stipulated in writing.

(b) Appoint in writing command personnel who are available to act as an advocate for the complainant. The advocate should be senior to the complainant and be familiar with Navy EO principles and objectives as well as complaint procedures. It is the duty of the advocate to counsel the complainant regarding other avenues of resolving the complaint; with the complainant, assist in completing Part II of the NAVPERS 5354/2 Complaint Form within 24 hours of filing the complaint; and provide interim feedback and other assistance as required to the complainant. The advocate also functions as the complainant's first point of contact for reporting any reprisal experienced as a result of filing the complaint.

(c) Strictly adhere to all timelines. In those cases where either discrimination or SH complaints cannot be resolved within 14 calendar days of commencement of the investigation (60 days for reserve units), the command shall notify CNO by the OPREP reporting system per reference (g). Additional reporting guidelines are shown in enclosure (1). Follow-on situation reports (SITREPs) are required every 14 days until the complaint is resolved. Commands must ensure that a final SITREP is forwarded, notifying all addressees of complaint resolution.

(d) Upon notification of resolution of the complaint, the complainant has 7 days to request a review of the complaint by the next higher authority. (If the next higher authority is not a Flag Grade General Courts-Martial Convening Authority (FGGCMCA), the complainant may further appeal the results of any intermediate appeal(s) to the cognizant superior competent FGGCMCA as defined in JAGMAN 0129.) After this 7-day period, if the complainant has not requested the review, the command may consider the complaint resolved per the findings of the investigating officer.

(e) Once resolved, properly complete all parts of the NAVPERS 5354/2, carefully documenting final command action(s).

(f) Request feedback from the complainant 30-45 days after taking all corrective action to determine its



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effectiveness and ensure no reprisal or repeat acts of discrimination or sexual harassment occur.

(14) Maintain an adequate and readily available stock of the Navy EO/SH formal complaint forms (NAVPERS 5354/2) for use by command personnel.

(15) Retain all resolved formal discrimination or SH complaints on file for a minimum of 36 months after which they may be destroyed. Command records should permit reviewers to clearly ascertain and assess decisions reached in each complaint.

(16) On a quarterly basis, report all substantiated cases of discrimination or SH using NAVFAC 5354/1, shown as enclosure (2) of this instruction. Also report via enclosure (2) all cases of discrimination or SH formally filed using the NAVPERS 5354/2 (whether or not substantiated via investigations). Include in the quarterly report the name, telephone number (voice and facsimile (FAX)), and e-mail address of the designated CMEO Officer.

## 6. Reports

a. Subordinate commands shall complete enclosure (2) using the instructions given below, in accordance with the following schedule:

<u>Period Covered</u>	<u>Due Date</u>
1 October - 31 December	20 January
1 January - 31 March	20 April
1 April - 30 June	20 July
1 July - 30 September	20 October

b. When reporting incidents of either SH or discrimination (based on race/ethnicity, gender, or religion), or any SH or discrimination incidents formally reported via the NAVPERS 5354/2, commands shall include the following information on the NAVFAC 5354/1:

(1) Enter short title of command, reporting period, and the number of formal complaints filed, the number substantiated, the number resolved, and the number of complaints still awaiting action(s) at the end of the reporting period. For each type of complaint filed, separate the data demographically by race/ethnic group and gender. Only units and staffs with chaplains assigned shall report under the category of "Discrimination Based on Religion".

(2) Provide a brief description of the incident, including type and date of the incident;

(3) Indicate the paygrade, gender, race/ethnicity and religious preference of the victim(s), the accused, and any witness(es);

(4) Provide a brief description, including the date, of the final action taken by the command on the incident, as well as the latest status of both the victim (i.e., undergoing counselling, restored to full duty, transferred to (give command), etc.) and the accused (i.e., reduced in rate/rank, transferred to (command name), etc.).

c. Submit negative reports if there are no substantiated cases to report for the quarter via official correspondence, FAX, or e-mail on command letterhead with a legible signature of the command individual authorized to release military EO data reports.

d. Submit reports to NAVFAC (Code 12R) directly. Functional commanders shall consolidate reports of subordinate activities to NAVFAC while maintaining the local capability to retrieve the specific data submitted by individual commands.

e. Reports detailed in paragraph 6 support EO program monitoring requirements.

f. NAVFAC encourages commands to advise the chain of command of specific initiatives which enhance their respective EO climates and which may assist other activities.

g. Report control symbol NAVFAC 5354-1 is assigned to this reporting requirement and is approved for 3 years from the date of this instruction.

7. Forms. NAVFAC 5354/1 may be obtained from NAVFAC 915 (Administrative Services). NAVPERS 5354/2 is available through the Navy supply system, or contact NAVFAC (Code 12R) for additional forms as well as answers to questions about the form.

Distribution:  
FKN  
NAVFAC Internal List 1

  
D. J. NASH

DISCRIMINATION/SEXUAL HARASSMENT REPORTING GUIDELINES

Discrimination/Sexual Harassment cases that cannot be resolved within 14 calendar days for active duty cases, or 60 calendar days for reserve unit cases, must be reported to CNO by OPREP and at minimum contain the following information:

1. Name of command reporting the incident. The immediate senior in the chain of command (ISIC) will report for cases involving a commanding officer.

2. Command point of contact, commercial, DSN, and FAX phone numbers.

3. Report number. For an initial report, state "initial report." For a follow-up message to a previous report on the same incident, state "report number two" and provide date/time group for the initial report message.

4. Date of incident(s).

5. Date incident was first reported to command and, when applicable, reason for reporting delay.

6. Date investigation began and, when applicable, state reason for investigation delay.

7. Describe assistance needed or state "no assistance required."

8. Explain why the resolution has taken longer than 14 days (60 days for reserve units).

9. General comments. Describe incident. Include rank, sex, age and race/ethnic group of all members involved and any other amplifying information.

10. Omit names, social security numbers or any other direct identification of those involved due to the extremely sensitive nature of this message traffic.

11. Required information addressees are: BUPERS Washington DC//PERS-6/61//, NAVINSGEN Washington DC//JJJ//, Navy JAG Alexandria VA//01/06/13//, COMNAVFACENGCOM Alexandria VA//12R//, and chain of command. For sexual assault cases, include BUPERS Washington DC//PERS-66// and COMNAVFACENGCOM Alexandria VA//12R//.

Encl (1)



# EQUAL OPPORTUNITY QUARTERLY DATA REPORT DISCRIMINATION COMPLAINTS DEMOGRAPHICS

1. COMMAND (short title) _____									
2. Rpt. Period: _____ Qtr									
3. Fiscal Year: _____									
<b>4. SEXUAL HARASSMENT</b>	No. Formal Complaints	No. of Complaints Substantiated	No. Resolved	No. Awaiting Action(s)	<b>5. DISCRIMINATION BASED ON RACE OR ETHNICITY</b>	No. Formal Complaints	No. of Complaints Substantiated	No. Resolved	No. Awaiting Action(s)
(a) American Native					(a) American Native				
Male					Male				
Female					Female				
(b) Asian-Pacific Islander					(b) Asian-Pacific Islander				
Male					Male				
Female					Female				
(c) Black (non-Hispanic)					(c) Black (non-Hispanic)				
Male					Male				
Female					Female				
(d) Hispanic					(d) Hispanic				
Male					Male				
Female					Female				
(e) White (non-Hispanic)					(e) White (non-Hispanic)				
Male					Male				
Female					Female				
(f) Other/Unknown					(f) Other/Unknown				
Male					Male				
Female					Female				
(g) Total					(g) Total				
Male					Male				
Female					Female				

# EQUAL OPPORTUNITY QUARTERLY DATA REPORT DISCRIMINATION COMPLAINTS DEMOGRAPHICS

1. COMMAND (short title) _____									
2. Rpt. Period: _____ Qtr									
3. Fiscal Year: _____									
<b>6. DISCRIMINATION BASED ON GENDER</b>	<b>No. of Formal Complaints</b>	<b>No. of Complaints Substantiated</b>	<b>No. Resolved</b>	<b>No. Awaiting Action(s)</b>	<b>7. DISCRIMINATION BASED ON RELIGION</b>	<b>No. of Formal Complaints</b>	<b>No. of Complaints Substantiated</b>	<b>No. Resolved</b>	<b>No. Awaiting Action(s)</b>
(a) American Native					(a) American Native				
Male					Male				
Female					Female				
(b) Asian-Pacific Islander					(b) Asian-Pacific Islander				
Male					Male				
Female					Female				
(c) Black (non-Hispanic)					(c) Black (non-Hispanic)				
Male					Male				
Female					Female				
(d) Hispanic					(d) Hispanic				
Male					Male				
Female					Female				
(e) White (non-Hispanic)					(e) White (non-Hispanic)				
Male					Male				
Female					Female				
(f) Other/Unknown					(f) Other/Unknown				
Male					Male				
Female					Female				
(g) Total					(g) Total				
Male					Male				
Female					Female				